

2. Provisional Double Patenting Rejection

The Examiner has provisionally rejected claims 1-14 under the judicially created doctrine of statutory type (same invention) double patenting over claims 1-6, 11-14 and 16-19 of co-pending Application No.: 10/290,335 assigned to Fuji Photo Film Co., Ltd. Since the double patenting rejection is provisional, Applicant requests that the Examiner hold in abeyance the double patenting rejection until one of the applications issues as a patent.

3. Claim Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 1 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Ikenoue *et al.* (US 5,168,303) ["Ikenoue"] in view of Kubo *et al.* (US 6,545,710) ["Kubo"]. For at least the following reasons, Applicant traverses the rejection.

Claim 1 recites a method of correcting white balance that comprises "estimating, by using at least gray and/or skin color information contained in an input color image, a color temperature of a photographing light source with which a color image has been formed." The Examiner concedes that Ikenoue does not disclose this feature but applies Kubo to allegedly cure the deficiency. The Examiner contends that Kubo discloses estimating based on a black body trace A, "which corresponds to using gray color information contained in an input color image." Office Action at page 4.

The system in Kubo estimates whether a light source is included in the high light portions in the photographed image or not by comparing the chromaticity coordinates (x, y) in a xy chromaticity diagram of the CIE obtained from the average levels R1, G1, B1 of each of the image data of R-, G-, B-components of the high light portions, with the black body trace A (See col. 13, line 58 - col. 14, line 8). The light source portions included in the image refer to the

portions upon which the light from the light source is directly incident and the portions upon which the light from the light source is incident via specular reflection (See col.12, lines 45-51).

Applicant submits that although the chromaticity coordinates (x, y) of Kubo can express various color temperatures of the light source, it is not done by using the chromaticity data of gray as contended by the Examiner. Accordingly, Kubo does not disclose the use of gray color information contained in an input color image.

In the system of Kubo, the black body trace A merely shows the color temperature change due to a temperature change of a black body (col. 13, line 67 to col. 14, line 1). That is, the black body trace A of Kubo merely describes a reference color of an object in the image, not necessarily the claimed gray color information. There is no disclosure or suggestion that the black body represents the gray color information contained in the color image. Accordingly, the Examiner's contention that Kubo discloses the claimed estimating by using gray color information is not supported in the prior art and appears to be mere speculation.

Therefore, Ikenoue in view of Kubo does not disclose or suggest "using at least gray and/or skin color information contained in an input color image" as set forth in claim 1.

Because claim 9 recites features similar to those given above with respect to claim 1, Applicant submits that claim 9 is patentable for at least reasons similar to those given above with respect to claim 1.

The Examiner has rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Ikenoue in view of Kubo and Shiraiwa *et al.* (US 6,160,579) ["Shiraiwa"]. For at least the following reason, Applicant traverses the rejection.

Because Shiraiwa does not cure the deficient teachings of Ikenoue in view of Kubo given above with respect to claim 1, Applicant submits that claim 2 is patentable at least by virtue of its dependency on claim 1.

4. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

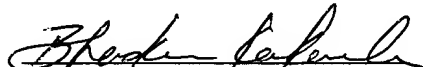
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Date: September 27, 2005